



National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0014; Notice 1]

Porsche Cars North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Porsche Cars North America, Inc., (Porsche) has determined that certain model year (MY) 2020-2021 Porsche Panamera motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 126, *Electronic Stability Control Systems for Light Vehicles*, No. 135, *Light Vehicle Brake Systems*, FMVSS No. 138, *Tire Pressure Monitoring Systems*. Porsche filed a noncompliance report dated December 15, 2021. Porsche subsequently petitioned NHTSA on January 14, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Porsche's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Vince Williams, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-2319.

SUPPLEMENTARY INFORMATION:

I. Overview: Porsche has determined that certain MY 2020-2021 Porsche Panamera motor vehicles do not fully comply with the requirements of paragraph S5.3.4 of FMVSS No. 126, *Electronic Stability Control Systems for Light Vehicles* (49 CFR 571.126), paragraph S5.5.2 of No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135); paragraph S4.3.3 of FMVSS No. 138, *Tire Pressure Monitoring Systems* (49 CFR 571.138). Porsche filed a noncompliance report dated December 15, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Porsche subsequently petitioned NHTSA on January 14, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Porsche's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 4,720 MY 2020-2021 Porsche Panamera motor vehicles manufactured between November 3, 2020, and December 8, 2021, are potentially involved.

III. Noncompliance: Porsche explains that the noncompliance is that the digital telltales do not illuminate during the lamp check function when the ignition is in the "On" position.

IV. Rule Requirements: Paragraph S5.3.4 of FMVSS No. 126, paragraph S5.5.2 of FMVSS No. 135, and paragraph S4.3.3 of FMVSS No. 138 include the requirements relevant to this petition:

- Except when a starter interlock is in operation, each ESC malfunction telltale must be activated as a check of lamp function either when the ignition locking system is turned to

the “On” (“Run”) position when the engine is not running, or when the ignition locking system is in a position between “On” (“Run”) and “Start” that is designated by the manufacturer as a check position.

- All indicators shall be activated as a check function by either: (1) automatic activation when the ignition (start) switch is turned to the “On” (“Run”) position when the engine is not running, or when the ignition (“Start”) switch is in a position between “On” (“Run”) and “Start” that is designated by the manufacturer as a check position, or (2) a single manual action by the driver, such as momentary activation of a test button or switch mounted on the instrument panel in front of and in clear view of the driver, or, in the case of an indicator for application of the parking brake, by applying the parking brake when the ignition is in the “On” (“Run”) position. In the case of a vehicle that has an interlock device that prevents the engine from being started under one or more conditions, check functions meeting the two aforementioned requirements need not be operational under any condition in which the engine cannot be started. The manufacturer must explain the brake check function test procedure in the owner's manual.
- Except when a starter interlock is in operation, each low tire pressure warning telltale must illuminate as a check of lamp function either when the ignition locking system is activated to the “On” (“Run”) position when the engine is not running, or when the ignition locking system is in a position between “On” (“Run”) and “Start” that is designated by the manufacturer as a check position.

V. Summary of Porsche’s Petition: The following views and arguments presented in this section, “V. Summary of Porsche’s Petition,” are the views and arguments provided by Porsche. They have not been evaluated by the Agency and do not reflect the views of the Agency. Porsche begins by describing the subject noncompliance and stating its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

Porsche explains that the telltale displays for several systems found in the subject vehicles, including the ESC system, brake system, and the tire pressure monitoring system (TPMS), do not use light bulbs or lamps but instead “utilize Thin-film-transistor (TFT) LCD technology.” Therefore, according to Porsche, “the bulb check or lamp check requirements of the cited FMVSS would not fulfill the safety purpose for which these requirements were originally written.”

Porsche claims that despite the subject noncompliance, “there is no adverse effect on the function on the warning telltale itself in the intended (warning) cases for any of the FMVSS-required telltales” because in the event that the system fails, the corresponding light would still illuminate.

Porsche states that when the bulb check requirements were first developed in 1969, vehicles used light bulbs with filament which “had a limited life span and were expected to fail routinely during the life of the vehicle,” therefore the bulb check requirements were intended to notify the driver of these anticipated bulb failures. According to Porsche, because the subject vehicles instead use LCD displays which “do not use filaments and have an expected life span that far exceeds the expected useful life of the vehicle,” the required bulb check function is “superfluous to safety.”

Furthermore, Porsche says that “even in the event of an illumination failure of the subject displays, the nature of the LCD cluster would make the failure obvious to the driver, eliminating the need for a bulb check.” If the display were to malfunction, Porsche explains that “the entire LCD display would go dark, leaving a substantial, and obvious portion of the instrument cluster dark” which would immediately alert the driver. Therefore, Porsche claims that NHTSA’s stated purpose of the bulb check requirement¹ would be fulfilled.

¹ See Letter from A. Cooke, Chief Counsel, NHTSA, to R. Clarke, President, Truck Manufacturers Association (March 5, 2007) <https://isearch.nhtsa.gov/files/001402rls.htm>.

Additionally, Porsche claims that “NHTSA also has recognized that these types of multi-function displays would not be expected to have the same functionality as traditional telltales and therefore may meet bulb check requirements in different ways.” Porsche references the FMVSS No. 126 final rule published by NHTSA on April 6, 2007,² to support its assertion that NHTSA has previously determined that a bulb check is not relevant or necessary to the type of display technology utilized for information/message centers. Therefore, if the display experiences a problem analogous to one which would be found by a telltale’s bulb check, the entire message center would be non-operational, a situation likely to be rapidly discovered by the driver.

Porsche concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Porsche no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Porsche notified them that the subject noncompliance existed.

(**Authority:** 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

